



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,240	08/03/2001	Michael A. Greenberg	1250/4	8715

7590 10/25/2004

Frank C. Nicholas
CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, IL 60201

EXAMINER

FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
----------	--------------

3624

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,240

Applicant(s)

GREENBERG ET AL.

Examiner

Daniel S Felten

Art Unit

3624

mw

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08/03/2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 27/09/2001
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on January 29, 2002 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See at least in claim 1 etc., What do you mean by "adjusting the specified price based on the shipping costs?" How is this process being done? Is there some calculation or algorithm being used? What technology is being used for this limitation? What is the difference between the commodity offer price, the specified price and the adjusted price? What is the difference between a price adjustment and a price discount? At least in claim 7, How are you defining what constitutes a "best" bid?

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (US 5,794,207) and Pool (US 6,460,020).

Re claims 1-3:

Walker discloses a method for providing a commodity offer price to a buyer, comprising:

receiving an offer to sell a commodity according to a predetermined contract at a specified price (see Walker, Abstract, col. 16, ll. 12-50),

Walker fails to disclose adjusting the specified price based on shipping costs; and transferring the adjusted price to the buyer over a computer network for displaying by a remote client, as in claim 2, adding the shipping costs to the specified price to produce the adjusted price, or as in claim 3, receiving a shipping destination from the buyer, receiving a shipping origin from the seller, computing the shipping costs as a function of the distance between of the shipping destination and shipping origin, and adding the shipping costs to the specified price to produce the adjusted price.

Pool discloses adjusting the specified price based on shipping costs, and transferring the adjusted price to the buyer over a computer network for displaying by a remote client, as in claim 2, adding the shipping costs to the specified price to produce the adjusted price, or as in claim 3, receiving a shipping destination from the buyer, receiving a shipping origin from the seller, computing the shipping costs as a function of the distance between of the shipping destination and shipping origin, and adding the shipping costs to the specified price to produce the adjusted price (see Pool Abstract, col. 3, ll. 5-10, 38-52 to col. 4, ll. 15; col. 8, ll. 65 to co. 9, ll. 5).

5. Claims 4-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neil et al (US 6,219,653).

O'Neil discloses, as in claim 4, a method for providing a bid to a seller, comprising: receiving a bid to purchase a commodity according to a predetermined contract' (see O'Neil, Abstract), discounting (adjusting the price) the bid based on shipping costs (see O'Neil col. 14, ll. 19-58 esp. ll. 52-58); and transferring the discounted bid to the seller over a computer network for displaying by a remote terminal (see O'Neil, fig. 3col. 15, ll. 41+) as in claim 5, subtracting the shipping costs from the bid to produce the discounted bid (see O'Neil col. 14, ll. 19-58 esp. ll. 52-58).

O'Neil discloses, as in claim 6, receiving a shipping destination from the buyer, receiving a shipping origin from the seller, determining the shipping costs based on the shipping destination and shipping origin (see O'Neil col. 14, ll. 19-58 esp. ll. 52-58).

O'Neil discloses negotiations and counter offers that vary the terms of the bid and price adjustment (see col. 14, ll. 30+), but fails to disclose subtracting the shipping costs from the bid to produce the discounted bid. Since O'Neil appreciate the shipping costs associated with the delivery of the commodity, it would have been obvious for an artisan of ordinary skill at the time the invention would have sought to negotiate and adjust the bid/price in accordance with shipping/handling costs as one of the terms of the original bid to provide a sense of fairness between the buyer and the seller. Furthermore, O'Neil would have sought to discount the bid price based upon the shipping costs as one of the terms within the negotiation process, in order to place the onus on the buyer (instead of the seller) to pay the shipping costs and to provide an added incentive to the buyer to buy the particular item being sold. Thus such a modification would have been an obvious expedient well within the ordinary skill in the art.

A method of providing a best bid and a best offer to a buyer, comprising: as in claims 7, 10, 15 receiving one or more offers to sell a commodity according to a predetermined contract at one or more specified prices, adjusting the specified prices based on shipping costs associated with a destination specified by the buyer', determining a best offer from the adjusted prices; determining a source location corresponding to the best offer price', receiving one or more bids to purchase the commodity', determining a best bid corresponding to the source location', adjusting the best bid based on the shipping cost between the source transferring the adjusted best bid and the best offer to the buyer over a location and the destination', and computer network for display by a networked host (see col. 13, ll. 22 to col. 14, ll. 65),

As in claims 8 and 11, computing the shipping cost as a function of the distance between the destination and the source location (see col. 13, ll. 22 to col. 14, ll. 65),

As in claims 9 and 12, computing the shipping cost as a function of a predetermined freight matrix (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 13, means for permitting a seller to enter an offer for selling a commodity according to a predetermined contract', means for permitting a buyer to enter a bid for purchasing the commodity', means for matching the bid to the offer to generate a transaction', means for notifying a transportation partner of the transaction so that the transportation partner can arrange pick-up and delivery of the commodity', and means for notifying a credit clearinghouse of the transaction so that the clearinghouse can arrange to receive payment from buyer and make payment to the seller (see col. 13, ll. 22 to col. 14, ll. 65).

As in claim 14, An exchange system, comprising', a buyer interface for displaying a menu for selecting a shipping destination and for displaying a table identifying one or more commodity contracts and corresponding buyer market prices for the commodity contracts, the buyer market prices being adjusted based on the shipping destination', and a seller interface for displaying a menu for selecting a shipping origination and for displaying a table identifying the commodity contracts and corresponding seller market prices for the commodity contracts, the seller market prices being adjusted based on the shipping origination(see col. 13, ll. 22 to col. 14, ll. 65).

As in claim 15, wherein at least one of the buyer market prices comprising a best offer and a best bid (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 16 wherein the best offer is computed by adding to one or more offers the cost of shipping between a respective shipping origin and the shipping destination, whereby generating one or more adjusted offers, and then selecting the lowest adjusted offer to be the best offer (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 18, wherein each of the seller market prices comprising a best offer and a best bid (see O'Neil col. 14, ll. 19-58 esp. ll. 52-58),

As in claim 19, wherein the best bid is computed by subtracting from one or more bids the cost of shipping between a respective shipping destination and a shipping origin, whereby generating one or more adjusted bids, and then selecting the lowest adjusted bid to be the best bid (see O'Neil col. 14, ll. 19-58 esp. ll. 52-58),

As in claim 20, wherein the best offer is computed by determining the shipping destination corresponding to a best bid, determining a lowest offer available to a buyer

at the shipping destination, and adjusting the lowest offer based on the shipping cost between the shipping origin and the shipping destination to get the best offer (see O'Neil col. 14, ll. 19-58 esp. ll. 52-58),

As in claim 21, a seller order entry interface, operatively associated with the seller interface, permitting a seller to enter an offer for selling a commodity according to a predetermined contract', and a buyer order entry screen, operatively associated with the seller interface, permitting a buyer to enter a bid for purchasing the commodity (see O'Neil col. 14, ll. 19-58 esp. ll. 52-58),

As in claim 22, a transaction generator, operatively associated with the seller order and buyer order interfaces, for matching the bid to the offer to generate a transaction (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 23, a delivery interface, operatively associated with the transaction generator, for notifying a transportation partner of the transaction so that the transportation partner can arrange pick-up and delivery of the commodity (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 24, a finance interface, operatively associated with the transaction generator, for notifying a credit clearinghouse of the transaction so that the clearinghouse can arrange to receive payment from buyer and make payment to the seller (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 25, a login interface permitting a user to login to the system as a buyer or a seller, the login interface causing either the buyer interface or the seller interface to be displayed to the user (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 26, a computer-usable medium storing a computer program, comprising 'means for displaying a menu for selecting a shipping destination', means for displaying one or more commodity contracts and corresponding buyer market prices for the commodity contracts, the buyer market prices being adjusted based on the shipping destination', means for displaying a menu for selecting a shipping origination', and means for displaying the commodity contracts and corresponding seller market prices for the commodity contracts, the seller market prices being adjusted based on the shipping origination (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 27, a buyer screen 12 for displaying a menu for selecting a shipping destination and for identifying one or more commodity contracts and corresponding buyer market prices for the commodity contracts, each of the buyer market prices comprising a best offer and a best bid, wherein the best offer is computed by adding to one or more offers the cost of shipping between a respective shipping origin and the shipping destination, whereby generating one or more adjusted offers, and then selecting the lowest adjusted offer to be the best offer, wherein the best bid is computed by determining the shipping origin corresponding to the best offer, determining a highest bid available to a seller at the shipping origin, and adjusting the highest bid based on the shipping cost between the shipping origin and the shipping destination to get the best bid;

a seller screen for displaying a menu for selecting a shipping origin and for identifying the commodity contracts and corresponding seller market prices for the commodity contracts, each of the seller market prices comprising a best

Art Unit: 3624

offer and a best bid, wherein the best bid is computed by subtracting from one or more bids the cost of shipping between a respective shipping destination and the shipping origin, whereby generating one or more adjusted bids, and then selecting the lowest adjusted bid to be the best bid, wherein the best offer is computed by determining the shipping destination corresponding to the best bid, determining a lowest offer available to a buyer at the shipping destination, and adjusting the lowest offer based on the shipping cost between the shipping origin and the shipping destination to get the best offer;

a seller order entry screen for permitting a seller to enter an offer for selling a commodity according to a predetermined contract', a buyer order entry screen for permitting a buyer to enter a bid for purchasing the commodity; and an exchange engine for matching the bid to the offer to generate a transaction (see col. 13, ll. 22 to col. 14, ll. 65),

as in claim 28, a delivery interface for notifying a transportation partner of the transaction so that the transportation partner can arrange pick-up and delivery of the commodity (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 29, a finance interface for notifying a credit clearinghouse of the transaction so that the clearinghouse can arrange to receive payment from buyer and make payment to the seller (see col. 13, ll. 22 to col. 14, ll. 65),

As in claim 30, a login interface permitting a user to login to the system as a buyer or a seller, the login interface causing either the buyer screen or the seller screen to be displayed to the user (see col. 13, ll. 22 to col. 14, ll. 65),

O'Neil fails wherein the best bid is computed by determining a shipping origin corresponding to a best offer, determining a highest bid available to a seller at the shipping origin, and adjusting the highest bid based on the shipping cost between the shipping origin and the shipping destination to get the best bid. However, Since O'Neil discloses a negotiation process that takes into consideration various terms that must be agreed upon before the transaction takes place, an artisan would have been motivated to determine the "best" bid based upon the highest available bid to the seller by adjusting the bid between the shipping origin and shipping destination as an advantage to the seller during the negotiation of terms with the buyer(s) to improve the amount for (price and/or quantity) for item(s) or service(s) the seller. Thus O'Neil would have sought such an advantage for the sellers within in counteroffers made to the bidder and thus been an obvious expedient well within the ordinary skill in the art.

Conclusion

6. A list of relevant prior art appears below not relied upon in this Office Action:

US Patents:

Sharp et al (US 6,263,317) discloses web sales channel conflict resolution system

Chelliah et al (US 5,710,887) discloses computer system and method for electronic commerce

Doyle et al (US 5,694,551) discloses computer integration network for channeling customer orders through a centralized computer to various suppliers

Blinn et al (US 5,999,914) discloses electronic promotion system for an electronic merchant system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S Felten whose telephone number is (703) 305-0724. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel S Felten
Examiner
Art Unit 3624

DSF
September 9, 2004



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600